Counseling Students to Prepare for Public Defender Careers

by Deb Ellis

For many attorneys, being a public defender is a high calling. On a human level, it can be one of the most fulfilling jobs a lawyer can have. On a practical level, public defenders acquire significant transferable skills: experience “standing up” in court; confidence interacting with clients, opposing counsel, and judges; skill in juggling multiple priorities and cases. Finally, in this challenging market, public defender offices are a dependable job source, due to *Gideon v. Wainwright*, 372 U.S. 335 (1963), which guaranteed the right to counsel in felony cases.

This article focuses on trial-level public defenders, but most of the advice applies equally to students considering prosecution careers, with one important caveat. Some public defenders believe that working for and understanding the “other side” is good training for being a public defender while others want applicants who are so committed to defense that they would never consider prosecution.

Career Mobility. Although many lawyers devote their entire careers to public defense, starting out as a public defender provides excellent training for a wide variety of jobs, such as positions in law reform or policy organizations, foundations, government, the judiciary, academia, international human rights, and private practice.

Salaries. These vary widely, but are often on the high side for public interest because there is an effort to keep them competitive with prosecutors.

Types of Public Defender Offices: Offices vary widely in philosophy, size, and quality. Some states have a statewide system with uniform hiring procedures and training. The majority of states do not have a centralized system, and offices are organized by individual counties.

While most public defender offices focus solely on criminal defense representation, some seek a broader mandate of “holistic” representation, providing representation in matters such as immigration, housing, and family court, in addition to traditional criminal defense.

Offices also have varying philosophies of representation. As two examples, offices differ about whether to consult with a client before talking with the prosecutor about a plea offer and how much to involve the client in developing a theory of the case.

Skills to Develop: As career counselors, we can remind our students to “begin with the end in mind.” Thus, in selecting courses and activities in law school, it is helpful to analyze what qualities make an excellent public defender. There are four essential skills or traits that public defenders need:

- interpersonal skills, such as integrity and judgment, and the ability to be resilient with opposing lawyers and judges while being compassionate toward clients;
- substantive knowledge — the ability to absorb and integrate large amounts of information, and the ability to identify a case’s strong and weak points;
- oral advocacy skills; and a
- commitment to criminal justice.
In sum, students should focus on obtaining both doctrinal knowledge and practical skills during law school by taking criminal law, criminal procedure, evidence, and a criminal clinic. Finally, it is helpful to take classes or participate in activities that give additional oral advocacy experience, such as moot court and trial advocacy.

**Internships.** Internships are essential preparation for public defender careers. Summer or term-time internships are the best way to (1) see if a student enjoys public defender work; (2) gain valuable experience for the post-graduate job search; and (3) make an impression on potential future employers.

**Choosing Internships.** To help students choose quality internships, coach them to consider:

1. Where they want to live after graduation, since the surest way to get an offer from that office is to spend a summer there.

2. Whether they will be able to have client interaction, courtroom observation, and perform investigations, not just do legal research. Especially ask if they will be able (as a 2L usually) to act as lead counsel or second seat at a trial.

3. Whether former interns have received adequate supervision and mentoring during their placements.

**Assessing office quality:** It is impossible for counselors to know about every office, so it is important to educate our students about how to assess offices. Supervision, training, and caseload are generally the most important factors. In evaluating the training, consider the type (lectures only or simulations also), length, and whether the training continues throughout the years. Students should ask about resources, such as availability of experts and investigative support. Finally, students can ask about these areas to learn more about the nature of the practice:

- vertical or horizontal representation
- misdemeanors or felonies
- practice choice vs. rotation
- plea philosophy
- academic vs. “street” lawyering
- collegial or tense relationship with DA’s office

**Getting Hired!** Now that your students have prepared themselves to be competitive in the public defender job market, a forthcoming NALP article, “Acing the Public Defender Interview,” will discuss hiring processes and how to get hired. For more information, see NYU’s Public Defender Handbook, available on www.pslawnet.org.

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